



The Convergence Of Intellectual Property Protection For Local Bags : A Study On Design Similarities With Well Known-Brands Through The Regimes Of Trademark, Industrial Design, And Geographical Indication

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Abstract: The local bag industry faces significant challenges in protecting Intellectual Property Rights (IPR) due to design similarities with well-known brands, which are closely related to the sustainability of the national economy. This study aims to analyze the convergence of trademark, industrial design, and geographical indication protections within the local bag industry and to identify solutions to address design-similarity issues. This research employs a normative juridical method, complemented by a literature review and in-depth interviews with experts from the Directorate General of Intellectual Property, drawing on statutory, conceptual, and sociological approaches. The findings indicate that the convergence of IPR protection across these three regimes provides complementary safeguards that strengthen the legal position of local bag products and enhance their competitiveness in the global market. However, its effectiveness remains constrained by low awareness of IPR registration, high registration costs, and weak law enforcement. Through this layered protection framework, local bag entrepreneurs can gain stronger protection, promote innovation, and reinforce the economic and cultural values unique to Indonesia, thereby contributing to the development of the national creative economy.

Keyword: Intellectual Property Rights, Trademark, Industrial Design, Geographical Indication, Local Bag Industry.

INTRODUCTION

The local bag industry in Indonesia demonstrates great potential through its diverse range of innovative and creative products; however, serious challenges arise in protecting Intellectual Property Rights (hereinafter referred to as IPR), particularly regarding design similarities with well-known brands. This issue is not merely a matter of copyright infringement but also poses a threat to the sustainability of the national creative industry. IPR protection in this context involves three main aspects: trademarks, industrial designs, and geographical indications.

Trademarks protect the identity of a product from imitation, industrial designs safeguard the unique form and visual appearance, and geographical indications protect products with qualities and reputations associated with their geographical origin. IPR represents the fruit of human creativity and intellect that holds strategic value, especially in the creative industry and in the utilization of natural resources. Therefore, legal protection of IPR becomes highly crucial.

The convergence of these three aspects is essential for addressing design-similarity issues, as infringements often occur across multiple domains. The challenges include a lack of understanding among local entrepreneurs of the importance of IPR protection, complex registration procedures, weak law enforcement, legal loopholes that enable counterfeit products to circulate, and low public awareness of original local products. This study aims to analyze the convergence of trademark, industrial design, and geographical indication protections within the local bag industry. The protection of IPR is closely related to the creation of products that embody novelty and uniqueness. For a product to obtain IPR protection, it must demonstrate creativity and innovation in accordance with the standards for each type of protection. Industrial design protection will only be granted if the design is genuinely new and has not been previously published. Meanwhile, in the context of trade secrets, protection is provided as long as the information has economic value and its confidentiality is maintained to prevent public disclosure (Noviriska, 2022).

Today, the bag industry in Indonesia continues to thrive, supported by growing consumer interest in contemporary local goods and the abundance of renewable resources. This research is conducted based on the recognition that the bag industry has enormous potential to grow and compete in the global market. However, this potential is often hindered by design similarities between local bag products and famous international brands, which can harm local entrepreneurs and discourage innovation. According to Ricky J. Pesik, the Deputy Head of the Creative Economy Agency, IPR registration remains a significant challenge. To date, only around 17% of the total 16.7 million creative economy actors in Indonesia have registered their intellectual property, leaving approximately 83% yet to do so despite the significant benefits IPR offers (Ganefi, 2019).

IPR protection for a product is therefore crucial. It represents the right granted to individuals or entities for the products, services, or processes resulting from intellectual effort that provide value to society. This study examines how convergence among industrial design, trademark, and geographical indication protections can be used to safeguard local bag products against imitation. By comprehensively understanding these issues, IPR protection can be implemented more effectively, enabling local entrepreneurs to build strong brands, create distinctive designs, and strategically leverage geographical indications to enhance competitiveness in both domestic and global markets.

The value of local products lies not only in their economic contribution but also in the creativity and cultural identity they embody. This research is motivated by the growing phenomenon of design similarities between local bag products and well-known international brands, which creates complex issues within the realm of Intellectual Property Rights (IPR). Numerous cases of design resemblance can be found in Indonesia, one of which involves local woven bags from Bali that share several design elements with famous brands such as Louis Vuitton, Fendi, and Prada. Similarly, locally crafted rattan bags from Sulawesi share design elements with luxury brands such as Chloé, Cult Gaia, and Fendi.

These design similarities create public confusion about whether such cases constitute legal infringements under Indonesian law. The protection of bag designs is governed by Law No. 28 of 2014 on Copyright (hereinafter referred to as the Copyright Law), particularly Article 40 paragraph (1) letter (m), which includes "applied art" as one of the protected works. Applied art refers to artistic creations that combine aesthetic elements with a practical function, such as

unique and original bag designs realized in physical form. In this case, Copyright does not protect ideas, concepts, or technical functions—only the expressive form. If a bag design is intended for mass production and commercial use, it would be more appropriate to register it as an *industrial design* rather than relying solely on copyright protection.

Under Law No. 31 of 2000 on Industrial Design (hereinafter referred to as the Industrial Design Law), industrial design is defined as a creation concerning the shape, configuration, or composition of lines or colors or their combination in two or three dimensional forms that produce an aesthetic impression and can be realized in a pattern for use in industrial or handicraft products (DJKI, 2025). Meanwhile, Article 21 of Law No. 20 of 2016 on Trademarks and Geographical Indications (hereinafter referred to as the Trademark and GI Law) stipulates that a trademark application shall be rejected if it bears similarity to a well-known mark. However, if a local bag is developed by a domestic entrepreneur or artisan with distinctive features, they are entitled to register their own trademark to obtain exclusive rights (Rianda R & Aras, 2023). Moreover, if the bag can be identified as originating from a specific region, it may qualify for protection as a *geographical indication (GI)* (Winda, 2015). GIs serve as indicators of a product's origin, reflecting qualities and reputation derived from local environmental or cultural factors, thereby optimizing the use of local natural and human resources (Ahlul, Sri & M Ikhsan, 2023).

Articles 56 to 66 of the Trademark and GI Law provide a legal framework enabling local producer communities to protect these distinctive characteristics from imitation by products associated with well-known brands. For instance, if a famous brand inspires a local rattan bag design, the owner of the industrial design rights for the luxury brand may file an infringement claim. Nonetheless, such local products also possess strong potential to qualify for GI protection, as they represent traditional Indonesian craftsmanship, utilize indigenous materials, and are handmade by local artisans. This is particularly relevant when the design resemblance is not identical but only shares partial stylistic elements. The protection of IPR for local products thus strengthens the legal position of local artisans, enhances product competitiveness, and serves as a legal instrument to preserve cultural heritage while reinforcing the local economy. Furthermore, IPR protection can function as a strategic tool to increase competitiveness in both domestic and international markets (Catur, Yuliati & Yenni, 2014).

Previous studies have discussed aspects of this issue; however, none have comprehensively integrated the legal protection of trademarks, industrial designs, and geographical indications within a single analytical framework. Some studies emphasize the importance of trademark protection in maintaining product identity and reputation, while others explore industrial design protection from aesthetic and functional perspectives. Geographical indication, on the other hand, is often analyzed in relation to cultural preservation and region-based economic empowerment. To date, no research has thoroughly synthesized these three dimensions of legal protection trademark, industrial design, and geographical indication — into a single cohesive study. Therefore, this research seeks to provide a comprehensive analysis by proposing a *convergent approach* to intellectual property protection specifically for local bag products.

Using Satjipto Rahardjo's theory of legal protection, law is understood as a tangible manifestation of the state's responsibility to guarantee security, order, and social justice for its citizens (Satjipto, 2000). In Satjipto's view, law is not merely a set of normative rules regulating human conduct but also an *instrument of protection* intended to safeguard fundamental human rights from arbitrary acts, whether committed by fellow citizens or by the authorities. Satjipto emphasizes that law must be implemented with a spirit of humanity and morality, not merely enforced in a textual or formalistic manner (Satjipto, 2006). Thus, the existence of legal protection cannot be measured solely by the number of laws enacted, but by the extent to which these laws genuinely provide justice and real protection to individuals. In

this context, law must be dynamic, evolving with society (*living law*), and serving as a means to achieve social welfare and collective prosperity

METHOD

Based on the background and problem formulation described earlier, this study falls under the category of normative legal research complemented by interviews. Normative legal research primarily focuses on library-based materials as its primary data source, a practice commonly referred to as *library research*. This method collects data from various legal literature and documents. According to Peter Mahmud Marzuki, normative legal research aims to identify legal norms, principles, and doctrines to provide answers to specific legal issues (Peter, 2010).

In this research, interviews were conducted to obtain in-depth expert opinions from officials at the Directorate General of Intellectual Property (DJKI), which serves as the competent authority responsible for the implementation and supervision of Copyright in Indonesia (Pramesta & Rianda, 2023), particularly involving the Directorate of Trademarks and Geographical Indications and the Directorate of Copyright and Industrial Design.

A normative method complemented by interviews was chosen because this research focuses on the legal systematic framework established by the Industrial Design Law and the Trademark and Geographical Indication Law (MIG Law). The inclusion of interviews allows the researcher to obtain firsthand insights from relevant informants and stakeholders regarding the factual issues observed in the field. The data obtained from these interviews are then aligned with prevailing Indonesian legal provisions to ensure normative alignment between theory and practice. From another perspective, an interview is a meeting between two or more individuals to exchange opinions or information through a question-and-answer process, ultimately yielding concrete answers relevant to the research problem (Marinu, 2023).

This study employs a normative legal research method complemented by interviews and library research using several approaches, such as statute approach, conceptual approach, and socio-legal approach.

RESULTS AND DISCUSSION

The Effectiveness of the Convergence of Trademark, Industrial Design, and Geographical Indication Protection in Safeguarding Local Bags From Similarities With Well-known Brands

Protection of Intellectual Property Rights (IPR) is one of the most essential aspects of developing Indonesia's creative economy, particularly within the local bag industry. This phenomenon not only causes economic losses to local artisans and entrepreneurs but also threatens the reputation and competitiveness of national products in the global market. Therefore, existing legal instruments must be evaluated not only from a normative perspective but also in terms of their *effectiveness* in providing tangible protection. The convergence of trademarks, industrial designs, and geographical indications has significant potential to provide adequate and complementary protection for local bag products against similarities with well-known brands. Each regime offers unique safeguards that, when applied synergistically, form an optimal layer of IPR protection.

Trademark protection plays a crucial role in preventing unfair business competition arising from similarities in form or overall appearance with famous brands, particularly in the context of local bag product trademark registration establishes a distinct trade identity that differentiates one's product from competitors. According to Article 2 paragraph (3) of the Trademark and Geographical Indication Law (Law No. 20 of 2016), trademark protection may include logos, names, words, letters, numbers, arrangements in two- and/or three-dimensional forms, sounds, holograms, or combinations thereof. However, when a local bag brand registers

its three-dimensional form as a trademark, it may overlap with protection under the industrial design regime.

Legal protection for famous brands in Indonesia also encounters evidentiary challenges. In the event of a dispute involving a local bag alleged to imitate a renowned brand, the claimant must prove the product's established reputation, such as long-standing public recognition or distinctive design features identifiable to consumers (Nadhila & Budi, 2023).

Industrial design protection complements this weakness by granting exclusive rights over a product's visual elements, such as its shape, motif, and configuration including line or color composition in two- or three-dimensional forms. Examples include distinctive weaving patterns, stitching accents, or combinations of straps and materials. Within the local bag industry, industrial design protection effectively prevents imitation of design elements that serve as the main visual attraction. However, the Industrial Design Law (Law No. 31 of 2000) enforces a strict novelty requirement, making it difficult for products following global design trends to qualify for registration (Myana & Yodo, 2019).

Industrial design rights in Indonesia are *constitutive* the legitimate owner is the first party to register the design with the Directorate General of Intellectual Property (DJKI). Nonetheless, many MSMEs (Micro, Small, and Medium Enterprises) engaged in local bag production face obstacles in registering due to limited financial capacity, technical knowledge, and time constraints (Faizul & Nanik, 2024). As a result, industrial design protection in practice remains underutilized. Despite these challenges, registration enables local producers to claim exclusive rights over the visual aspects of their creations, narrowing the space for "creative imitation." Thus, while industrial design protection can serve as a powerful legal instrument, its effectiveness within the convergence framework largely depends on external factors such as registration accessibility, legal literacy, and willingness to pursue enforcement.

Another critical aspect of IPR protection for local bags is Geographical Indication (GI). GI not only provides legal protection but also enhances economic value by assuring consumers of product authenticity while allowing producers to associate their goods with the distinctive quality of a particular region (Maria, 2015). GI protection operates communally, emphasizing product quality, reputation, and characteristics linked to geographical origin and natural resources. For instance, woven bags from Lombok or batik-patterned bags from Yogyakarta may qualify for GI protection.

The effectiveness of GI protection lies in its capacity to strengthen product reputation by highlighting the uniqueness of geographical origin. However, its implementation for local fashion products, such as bags, is not always practical. Fashion products are trend-oriented and often lack a strong geographical connection, making GI registration difficult. Implementation barriers are further exacerbated by producers' limited understanding of GI procedures and insufficient coordination among local artisans and community institutions. For example, a study of stone handicrafts in Krikilan Village, Central Java, found that artisans refrained from registering for GI protection due to limited awareness and a lack of government outreach (Nita, 2022). This reflects the vast GI potential in Indonesia, but the number of products successfully registered remains relatively small compared to the opportunities available.

Previous studies on optimizing GI protection also show that administrative burdens, costs, and ownership disputes hamper its effectiveness (Sri, Mulyanto & Raffel, 2023). Many producers neglect GI registration because the process is perceived as complicated, prioritizing production and marketing instead. Consequently, although GI offers a strong foundation for reinforcing local identity and reputation, its effectiveness in protecting local bags from design imitation depends heavily on proactive participation from both entrepreneurs and the government.

However, specific weaknesses remain within the convergence of these three IPR regimes, particularly regarding industrial design protection. Industrial design rights last only ten (10)

years, after which the design enters the public domain, allowing anyone to reproduce or modify it freely. According to the Directorate of Trademarks and Geographical Indications, dual registration of trademarks and industrial designs is permissible provided each focuses on distinct aspects. For instance, a leather bag from Garut may register its industrial design for its motif and its trademark for the logo. Yet, such protection is weaker than registering a three-dimensional trademark representing the entire product shape, since trademark rights last ten years and are renewable indefinitely, unlike industrial design rights, which expire (DJKI, 2025).

An example is rattan bags from Kalimantan, which may not feature a logo but can still be registered as a three-dimensional trademark. If the bag uses locally sourced materials and traditional motifs, it may also qualify for GI protection. However, a product cannot simultaneously be registered under industrial design if it already holds a three-dimensional trademark, as this would create legal overlap. Conversely, a local bag product with a distinctive logo can be registered as a trademark, its physical design protected under industrial design law, and its traditional motif or raw material protected under GI law through the local government or supporting NGOs.

Therefore, the effectiveness of convergence among trademarks, industrial designs, and geographical indications in protecting local bags from design imitation lies in creating a *layered protection system* in which each regime compensates for the others' limitations. Trademarks serve as distinctive identifiers, industrial designs protect aesthetic elements, and GIs safeguard communal reputation linked to regional origin. When these three regimes operate simultaneously, IPR protection for local bag products becomes stronger and more comprehensive than relying on a single regime alone. This model is considered adequate not only as a legal safeguard but also as a means of mitigating layered legal risks (I Gusti, 2016).

In practice, however, the effectiveness of convergence still faces several challenges as previously discussed. If these barriers can be overcome, the convergence of the three IPR regimes could yield significant strategic benefits not only as a legal tool to protect local bags from imitation but also as a mechanism to increase economic value, strengthen competitiveness in global markets, and preserve local cultural identity. This aligns with previous studies indicating that GI protection enhances regional economies based on traditional crafts, industrial design protection reinforces product differentiation, and trademark protection legitimizes brand identity. In other words, the effectiveness of IPR convergence should not be assessed solely by its ability to prevent imitation, but also by its broader contribution to fostering innovation and supporting the sustainable development of the creative economy in Indonesia.

Trademark, Design, and Geographical Indication Protection in Indonesia for Local Bags Facing Design Similarity

Trademark protection is a fundamental pillar of the Intellectual Property Rights (IPR) system. Its primary purpose is to grant the owner exclusive rights to use signs that distinguish their products from similar goods in this context, local bags. In the fashion industry, especially for bags, trademarks not only serve as a commercial identity but also as a symbol of reputation and product quality. To prevent imitation, trademarks must be registered with the Directorate General of Intellectual Property (DJKI) and are legally governed by the Trademark and Geographical Indication Law (Law No. 20 of 2016).

Trademark registration in Indonesia follows the "first to file" system, meaning that rights are granted to the first applicant to file, and such rights are recognized only after the Directorate of Trademarks and Geographical Indications accepts the application. One of the key requirements for registration is *novelty* or *distinctiveness*. If a proposed mark lacks distinctiveness from existing marks, the registration will be automatically rejected (Dandi, 2015). Although Indonesia's trademark system is *first-to-file*, an exception applies to well-

known marks. In this case, a renowned brand may still receive protection even if it has not been registered in Indonesia, since Indonesia has ratified the Paris Convention and the TRIPs Agreement.

The Paris Convention obliges member states to reject or cancel the registration of marks that imitate or reproduce well-known marks, even if the latter are unregistered domestically. In the bag industry, this protection extends to brands such as Louis Vuitton, Chanel, and Prada. Similarly, the TRIPs Agreement requires member states to protect well-known marks even for dissimilar goods or services if such use could harm the reputation of the famous mark. Under Indonesian law, this principle is reflected in Article 21 paragraph (1)(b) of the Trademark and Geographical Indication Law, which stipulates that an application shall be refused if the mark is identical or substantially similar to a well-known mark (Rakhmita, 2018).

However, Indonesia has not yet established a detailed substantive standard for determining what constitutes a “well-known” mark. The existing criteria only emphasize that such marks must have a high reputation in the commercial world and be recognized at least on a regional scale. Trademark registration must also be carried out in good faith and must not be substantially similar to an existing mark in terms of form, spelling, combination of elements, or pronunciation (Vira, 2020). Article 76, paragraph (1) of the same law provides that a registered or well-known mark that is found to be identical or substantially similar may be subject to cancellation proceedings.

Many local bag producers in Indonesia remain unaware of the scope of IPR protection available for their product designs. The protection of industrial designs in Indonesia is governed by the TRIPs Agreement (Trade-Related Aspects of Intellectual Property Rights), as part of Indonesia's obligations as a member of the World Trade Organization (WTO). Domestically, industrial designs are regulated under Law No. 31 of 2000 on Industrial Design, which requires *novelty* and *aesthetic value* as key criteria for protection. However, the application of the novelty principle lacks detailed parameters defining the acceptable degree of similarity that does not constitute infringement (Pahala, 2021).

Industrial design protection is granted only to designs that differ from previously registered ones. Furthermore, “*renewal*” or improvement of a design may be registered if it introduces changes to aspects such as configuration, lines, or colors. In practice, however, the novelty and aesthetic value criteria are often difficult to assess objectively particularly in the bag industry, where trends evolve rapidly, and designs are highly influenced by global visual culture. Like trademarks, the registration of industrial designs in Indonesia also follows a first-to-file system. The first applicant to register a design obtains exclusive rights, which may create conflicts between the original creator and a third party who registers the design first (Niru, 2021). Once approved, the applicant receives an exclusive right from the state to use or license the design for a period of ten (10) years, counted from the filing date, as published in the official industrial design bulletin.

Industrial design protection aims to encourage creativity and innovation in national industries while enhancing the global competitiveness of Indonesian products, consistent with international commitments under WTO and TRIPs. Licensing agreements allow design owners to grant third parties usage rights under mutually agreed terms, providing economic incentives for creators. Meanwhile, protection under the Geographical Indication (GI) regime continues to face practical challenges. Many local bag artisans and producers are unaware that distinctive regional characteristics can qualify for GI protection. GI is often associated with natural resources or agricultural products, while fashion-related crafts such as locally made bags have received limited attention in this regard (Julia & Andriyanto, 2021).

For example, Lantung leather bags from Bengkulu have unique characteristics, as they are made from natural materials sourced in Sumatra and processed with traditional techniques specific to the region. Such attributes signify that these products are inherently linked to their

geographical source. To obtain GI protection, the local government plays an essential role in initiating the registration process and supporting certification documentation. The presence of GI protection serves as a legal shield against commercial exploitation or cultural appropriation by foreign brands that may draw inspiration from Indonesian cultural elements. GI recognition also acts as a manifestation of cultural and economic sovereignty. A local bag product granted GI protection enjoys a stronger legal standing in design-similarity disputes, as any unauthorized use of its geographical name or characteristic motif constitutes infringement.

Thus, trademark, industrial design, and GI protection collectively form a comprehensive legal framework that safeguards local bag products from design imitation and strengthens their position within the creative economy. Trademark protection provides exclusive commercial identity, industrial design law secures visual innovation, and GI recognition elevates cultural and regional value together fostering sustainable protection for Indonesia's creative industries

CONCLUSION

The convergence of Intellectual Property Rights (IPR) protection across trademark, industrial design, and geographical indication regimes is crucial for safeguarding local bag products from design-similarity issues with well-known brands. These three forms of protection complement one another by providing a distinctive commercial identity to differentiate products, securing the visual aesthetic aspects against imitation, and reinforcing product reputation, which is intrinsically linked to the characteristics of its geographical origin. The synergy among these regimes establishes a layered protection system that strengthens the legal position of local creative industry actors amid intense global competition, ensuring that each form of protection effectively supports and enhances the others.

However, the effectiveness of this convergence still faces several challenges, including the low awareness among business owners regarding the importance of IPR registration, relatively high registration costs, weak law enforcement, and limited government outreach and education. These barriers have resulted in many local products not yet obtaining optimal IPR protection particularly within the Geographical Indication regime, where local communities often lack sufficient understanding of its significance and procedures.

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